

THE STATE OF UTAH

OFFICE OF STATE ENGINEER

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STATE ENGINEER

SALT LAKE CITY

May 26, 1933

Memorandum for Office Study only, by R. Jerman

IN RE: EMERY DIST.

While in Emery, Utah on May 23, 1933 I was met by the Justice of the Peace J.R. Sorensen who stated that Emery Canal & Reservoir Co. stock-holders were having some difficulty on one lateral and that the President of this Canal Co. is E.H. Duzett. The directors are L.W. Peterson, N.C. Hansen, Marion Albrechtsen, L.P. Jensen and P. V. Bunderson. On this lateral referred to Mr. Duzett owned approximately 65% of the water, the other parties owning 35%; that heretofore and during the life of the corporation the water users on each lateral have rotated their water in accordance with the number of shares each owned. It has also been the custom that each spring the first man ready turned the water in and watered up and continued as he needed it until the next was ready etc. until they were all watered over the first time after which the water went in turns.

Early this spring Mr. Duzett got ready first and used the water in this particular lateral for 22 days. Then one of the other water users on the lateral wanted his turn but Mr. Duzett said that they were not going to rotate this year as he was going to have his individual stream. The remainder of the water users on this lateral, he said, could do whatever they pleased with their water. The other users immediately went up and took all the water from Duzett. Duzett then went down to the Justice of the Peace, Mr. Sorenson, and got from him an order for the constable to go up and turn Duzett's water back to him which he did. The remainder of the water users were at once "up in arms" for after 65% of the water is turned to Duzett in this lateral the stream is so small it is practically impossible to irrigate with and further because this practise had never been carried out before since the organization of the corporation.

In addition to the trouble over the division of the water there was some trouble over head ditches but the other users did not want to take Duzett's water out of the head ditch which was a private ditch because they felt this would be an acknowledgement that he had a right to take an individual stream. It appears that Duzett with his 65% of the water can handle his land in fair shape for the reason that he has a large number of shares in proportion to the land he is irrigating while in some cases the aggrieved parties have more land than their stock in the corporation will water.

#2-Memo on Emery Dist. 5/26/33

I told the Justice of the Peace that the State Engineer office had no jurisdiction over the division of the water in the corporation unless 25% of the users petitioned the State Engineer for a Water Commissioner on the Canal for the division of water between the stock-holders and if they could not settle the thing among themselves that this may be necessary but that I thought the Board of Directors, with the power invested in them thru their Articles of Incorporation, had the power and could handle this situation if they were called together and the proposition put up to them. The Justice of the Peace said that the Board was pretty well scattered but that they, no doubt, would be called together and he, too, thought the problem could be handled thru the Board members.

R.J.